

REMARKS

This Request for Reconsideration is filed in response to the Office Action of June 20, 2005 in which claims 1-16 and 22-25 were subject to restriction, and the examined claims 17-21 were rejected.

Regarding the 35 U.S.C. § 102(e) rejection of claims 17, 18 and 21 as being anticipated by Dalal et al (U.S. 2002/0065894), it is noted that the filing date of the Dalal et al reference is November 30, 2000 which is after the U.S. priority date of the present application of November 8, 2000. Although Dalal et al claimed priority from a provisional application number 60/168,881 filed on December 3, 1999, the provisional application of Dalal et al is quite different from the regular application filed on November 30, 2000. For instance, the Examiner cites passages in the regular application of Dalal et al which pertain to figures (such as Fig. 2) which do not exist in the provisional application of Dalal et al. Similarly, although there is some similarity between the sole figure of the Dalal et al provisional application and Fig. 1 of the Dalal et al regular application, the details differ and the Examiner has relied on passages in the regular application that have direct applicability to details contained in the regular application which do not exist in the provisional application which is the only application which has any possible 102(e) effect.

It is requested that if the Examiner wishes to maintain this ground of rejection that the detailed action in paragraphs 7 and 9 on pages 4-6 of the Office Action be revised to refer to the Dalal et al provisional application so that the Examiner's position can be understood with reference to the provisional application 60/168,881.

In any event, a review of both the regular and provisional applications of Dalal et al reveals that the main idea of Dalal et al is to give mobility to instant messaging users who may be away from their desktop computers which have traditionally been the only means to conduct instant messaging, at least in the sense of "America On Line" or the Microsoft variant thereof mentioned in the Dalal et al specification.

The way this is done by Dalal et al is to create a combination of instant messaging and a preexisting service called "unified messaging" where users can retrieve and transmit messages without regard to the original or final format of the data. As shown in Fig. 1 of the provisional application of Dalal et al, a user of a unified instant messenger (UIM) could be for instance the user's desktop. It is able to interact with a messenger server MMS in the normal way using MMSP but can set up a routine that allows the user to for instance use his UIM as an SMTP client/server that sends out the instant message as email to the mobile device and receives back email therefrom. It converts the received email back into MMSP for transmission back to the messenger client MMC that initiated the message to which the user is replying.

In the rejection, the Examiner states that the instant messaging server referred to on page 2, paragraph 14 of the regular application of Dalal et al, i.e., the instant messenger server 15 is responsive to an invitation message from an inviting user to exchange content with an invited user. Presumably this could mean the messaging client 12 is sending an invitation to the presence and messaging processor 15, according to this interpretation of the reference. Or, it could be the user of the UIM processor 10 doing the same thing from the other direction as suggested in numbered paragraph [0006] on page 1 of Dalal et al (regular application). This is also mentioned in the provisional application of Dalal et al in the section numbered 3 (UIM messenger) in the APPENDIX A where it is stated that "...a user runs the UIM messenger application on his or her computer and login to a server" in lines 5 and 6 of the first full paragraph on that (unnumbered) page. Thus, under this interpretation, the claimed central server corresponds to the MMS of Figure 1 of the provisional application of Dalal et al.

In the second paragraph of numbered paragraph 9 on page 5 of the detailed action, the claimed presence server is analogized to the same MMS device (albeit the presence and messaging processor 15 of the regular application of Dalal et al).

There is therefore a contradiction between the analogy set up by the Examiner since the central server and the presence server are distinct entities in the claim and are the same entity in the reference. Consequently, the same entity of

Dalal et al would have to fulfill the role of both the claimed central server and presence server and while not impossible, such is not shown.

As mentioned above, the Dalal et al reference makes it possible for a user to achieve some mobility with his instant messaging service by delegating responsibility to his UIM processor 10 to convert incoming instant messages to a format that would be appropriate for delivery to his mobile device 13 when he is away from his desk. This can be done by establishing one of the non-default states described by Dalal et al, i.e., a pageable state or an emailable state wherein the UIM processor is able in one of these states to ascertain the correct format for incoming instant messages to be converted to in order to be passed on in the correct format over the Internet to the user terminal 13. Similarly, the UIM processor 10 is able to receive messages back from the user terminal 13 and convert them back into instant messaging format to be passed back to the sender in the appropriate format.

Aside from the difficulty in making an analogy between the claimed central server and presence server and the Dalal et al provisional application, there is a more significant difference between what is shown by Dalal et al and what is claimed in the present application. Even if the confusion between the central server and presence server as mentioned above were somehow cleared up, there is still the problem of the Dalal reference not mentioning anything about spatial location being part of the presence information of the user. The only time the word "location" is used in the Dalal et al provisional application is in the context of describing a "remote location" of the user of the user terminal 13 which does not convey any information regarding the "spatial" location of the user terminal 13. It only conveys information in a general sense that the user terminal 13 is at a location that is remote from the desktop of the user and does not have any "spatial" information pertaining to location. The word "spatial" of course conveys the idea that the information contains information relating to or having the character of space which is of course founded on measurements of length or distance. As pointed out in the specification, this can be geographical (a two or three dimensional version of spatial location). See for instance page 16 at line 7 and at page 19, line 28 and at page 20, line 19 of applicant's specification. The present application is replete with references to spatial

location and some of the references mentioned in the specification describe this idea even more. For instance, the common spatial location data set spells out that the elements of such a data set include coordinates expressed in latitude, longitude, and optional altitude using WGS-84 data. The specification contemplates making latitude and longitude mandatory and includes various accuracy and time features as well, along with direction, course, orientation, etc. The parameters of these various pieces of data are set forth in the spatial location protocol draft.

The present invention makes it possible to achieve location based services by combining presence and spatial location of a user by enabling the exchange of content based on both of these properties. A careful review of both the regular application of Dalal et al (which is inapplicable as a 102(e) reference) and the provisional application of Dalal et al fail to show anything to do with spatial location connected with presence.

Regarding the application layer control protocol limitation of claim 17, there is no mention in the Dalal et al reference of the session initiation protocol or any other application layer control protocol such as the SIP or the establishment, modification and termination of conferencing and telephony sessions over IP based networks. The Wireless Application Protocol in contrast defines a communication protocol and application environment that allows access to Internet content and services from mobile phones. It is especially designed for small-screen devices with limited input capabilities and low bandwidth. The application layer of the wireless application environment of the WAP protocol stack provides an application environment intended for the development and execution of portable applications and services and is not a control protocol at the application layer as claimed but rather an application or a collection of applications.

Regarding the limitation in claim 17 that the central server decides whether the content is sent, stored or refused, such a limitation is not shown in the Dalal et al regular application or in the provisional application of Dalal et al.

Regarding claim 18, there is nothing in either of the Dalal et al references that shows or suggests a subscription query, notification information or event

notification for use in deciding whether the content should be sent to the invited user, stored or refused.

The 35 U.S.C. § 102(e) rejection of claims 17, 18 and 21, having been shown to be inapplicable, withdrawal thereof is requested.

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Claims 19 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dalal et al (U.S. 2002/0065894) in view of "Official Notice."

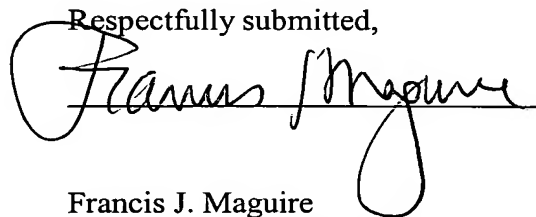
Applicant does not dispute that SIP is known and SLoP is known. However, combination of the limitations of claim 17 as described above and the limitations of either claim 19 or 20 together with the limitations of claim 17 is not shown or suggested by the references. The Examiner has not shown any motivation from the Dalal references themselves (either the regular or provisional) that would suggest the combination of either SIP or SLoP with the limitations of claim 17, much less claim 18. Therefore, the 35 U.S.C. § 103(a) rejection of claims 19 and 20 is inapplicable and withdrawal thereof is requested.

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The objections and rejections of the Office Action of June 20, 2005, having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested and passage of claims 17-21 to issue is solicited.

22 Sept 05
Date

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